

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

MIGUEL STEVEN VIRRUELA LOPEZ,

Petitioner,

vs.

ANTHONY J. BRIGANO,
WARDEN, LEBANON CORRECTIONAL
INSTITUTION,

Respondent.

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Case No. 3:04cv047

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #25), IN THEIR
ENTIRETY; PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILING
(DOC. #28) OVERRULED; CERTIFICATE OF APPEALABILITY DENIED;
ANTICIPATED MOTION FOR LEAVE TO APPEAL *IN FORMA PAUPERIS*
DENIED; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND
AGAINST PETITIONER, DENYING PETITIONER'S PETITION FOR WRIT
OF HABEAS CORPUS, DENYING A CERTIFICATE OF APPEALABILITY
AND AN ANTICIPATED MOTION FOR LEAVE TO APPEAL *IN FORMA*
PAUPERIS; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge, in her Report and Recommendations filed December 15, 2006 (Doc. #25), as well as upon a thorough review of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. Petitioner's Objections to said judicial filing (Doc. #28) are overruled.

Concluding that Petitioner has waived/procedurally defaulted his first through eighth grounds for relief for purposes of federal habeas corpus review, this Court's ruling thereon is not debatable by jurists of reason. The conclusion that Petitioner's ninth and tenth grounds for relief will be denied upon their merits, likewise, are not debatable among jurists of reason. The record as a whole does not support Petitioner's claim that he has made a substantial showing of the denial of a constitutional right or rights. Accordingly, this Court denies a Certificate of Appealability.

Concluding that any appeal from this Court's Opinion herein would be objectively frivolous, this Court will deny an anticipated request for leave to appeal *in forma pauperis*.

Judgment will be ordered entered in favor of Respondent and against Petitioner herein, denying the Petitioner's Petition for Writ of Habeas Corpus, denying a Certificate of Appealability and an anticipated request for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

March 30, 2007

/s/ Walter Herbert Rice

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

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